

# TAX INCENTIVE REVISIONS

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## LONG TITLE

### General Description:

This bill modifies provisions relating to tax incentives for new development projects.

### Highlighted Provisions:

This bill:

- ▶ authorizes a community reinvestment agency to enter into a participation agreement and moves the language relating to a participation agreement from the definition of participation agreement to the provision authorizing the agency to enter into a participation agreement;
- ▶ modifies a provision relating to information that an agency is required to provide to the Governor's Office of Economic Opportunity for inclusion in a database maintained by the Office;
- ▶ requires an agency with no active project area to submit a report to the Office;
- ▶ requires the Office to refer an agency to the state auditor and post a notice on the Office's website or report the agency to the county auditor and treasurer if an agency fails to comply with applicable reporting requirements;
- ▶ requires an agency with unexpended project area funds more than five years after the expiration of a specified period to use those funds for housing;
- ▶ requires an analysis of whether projected development would be likely to occur without the use of tax incentives; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### List of sections affected:

AMENDS:

17C-1-102

17C-1-202

17C-1-603

33 17C-1-702  
34 17C-5-105  
35 63N-2-104.2

36

37 Statutory text:

38 **17C-1-102. Definitions.**

39 As used in this title:

40 (1) "Active project area" means a project area that has not been dissolved in  
41 accordance with Section 17C-1-702.

42 (2) "Adjusted tax increment" means the percentage of tax increment, if less than  
43 100%, that an agency is authorized to receive:

44 (a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax  
45 increment under Subsection 17C-1-403(3);

46 (b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding  
47 tax increment under Section 17C-1-406;

48 (c) under a project area budget approved by a taxing entity committee; or

49 (d) under an interlocal agreement that authorizes the agency to receive a taxing  
50 entity's tax increment.

51 (3) "Affordable housing" means housing owned or occupied by a low or moderate  
52 income family, as determined by resolution of the agency.

53 (4) "Agency" or "community reinvestment agency" means a separate body corporate  
54 and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community  
55 development and renewal agency under previous law:

56 (a) that is a political subdivision of the state;

57 (b) that is created to undertake or promote project area development as provided in  
58 this title; and

59 (c) whose geographic boundaries are coterminous with:

60 (i) for an agency created by a county, the unincorporated area of the county; and

61 (ii) for an agency created by a municipality, the boundaries of the municipality.

62 (5) "Agency funds" means money that an agency collects or receives for agency  
63 operations, implementing a project area plan or an implementation plan as defined in Section  
64 17C-1-1001, or other agency purposes, including:

65 (a) project area funds;

66 (b) income, proceeds, revenue, or property derived from or held in connection with  
67 the agency's undertaking and implementation of project area development or agency-wide  
68 project development as defined in Section 17C-1-1001;

69 (c) a contribution, loan, grant, or other financial assistance from any public or private  
70 source;

71 (d) project area incremental revenue as defined in Section 17C-1-1001; or

72 (e) property tax revenue as defined in Section 17C-1-1001.

73 (6) "Annual income" means the same as that term is defined in regulations of the  
74 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as  
75 amended or as superseded by replacement regulations.

76 (7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

77 (8) "Base taxable value" means, unless otherwise adjusted in accordance with  
78 provisions of this title, a property's taxable value as shown upon the assessment roll last  
79 equalized during the base year.

80 (9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year  
81 during which the assessment roll is last equalized:

82 (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,  
83 before the project area plan's effective date;

84 (b) for a post-June 30, 1993, urban renewal or economic development project area  
85 plan, or a community reinvestment project area plan that is subject to a taxing entity  
86 committee:

87 (i) before the date on which the taxing entity committee approves the project area  
88 budget; or

89 (ii) if taxing entity committee approval is not required for the project area budget,  
90 before the date on which the community legislative body adopts the project area plan;

91 (c) for a project on an inactive airport site, after the later of:

92 (i) the date on which the inactive airport site is sold for remediation and development;  
93 or

94 (ii) the date on which the airport that operated on the inactive airport site ceased  
95 operations; or

96 (d) for a community development project area plan or a community reinvestment  
97 project area plan that is subject to an interlocal agreement, as described in the interlocal  
98 agreement.

99 (10) "Basic levy" means the portion of a school district's tax levy constituting the  
100 minimum basic levy under Section 59-2-902.

101 (11) "Board" means the governing body of an agency, as described in Section  
102 17C-1-203.

103 (12) "Budget hearing" means the public hearing on a proposed project area budget  
104 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,  
105 Subsection 17C-3-201(2)(d) for an economic development project area budget, or  
106 Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

107 (13) "Closed military base" means land within a former military base that the Defense  
108 Base Closure and Realignment Commission has voted to close or realign when that action  
109 has been sustained by the president of the United States and Congress.

110 (14) "Combined incremental value" means the combined total of all incremental  
111 values from all project areas, except project areas that contain some or all of a military  
112 installation or inactive industrial site, within the agency's boundaries under project area plans  
113 and project area budgets at the time that a project area budget for a new project area is  
114 being considered.

115 (15) "Community" means a county or municipality.

116 (16) "Community development project area plan" means a project area plan adopted  
117 under Chapter 4, Part 1, Community Development Project Area Plan.

118 (17) "Community legislative body" means the legislative body of the community that  
119 created the agency.

120 (18) "Community reinvestment project area plan" means a project area plan adopted  
121 under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

122 (19) "Contest" means to file a written complaint in the district court of the county in  
123 which the agency is located.

124 (20) "Development impediment" means a condition of an area that meets the  
125 requirements described in Section 17C-2-303 for an urban renewal project area or Section  
126 17C-5-405 for a community reinvestment project area.

127 (21) "Development impediment hearing" means a public hearing regarding whether a  
128 development impediment exists within a proposed:

129 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section  
130 17C-2-302; or

131 (b) community reinvestment project area under Section 17C-5-404.

132 (22) "Development impediment study" means a study to determine whether a  
133 development impediment exists within a survey area as described in Section 17C-2-301 for  
134 an urban renewal project area or Section 17C-5-403 for a community reinvestment project  
135 area.

136 (23) "Economic development project area plan" means a project area plan adopted  
137 under Chapter 3, Part 1, Economic Development Project Area Plan.

138 (24) "Fair share ratio" means the ratio derived by:

139 (a) for a municipality, comparing the percentage of all housing units within the  
140 municipality that are publicly subsidized income targeted housing units to the percentage of  
141 all housing units within the county in which the municipality is located that are publicly  
142 subsidized income targeted housing units; or

143 (b) for the unincorporated part of a county, comparing the percentage of all housing  
144 units within the unincorporated county that are publicly subsidized income targeted housing  
145 units to the percentage of all housing units within the whole county that are publicly  
146 subsidized income targeted housing units.

147 (25) "Family" means the same as that term is defined in regulations of the United  
148 States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as  
149 amended or as superseded by replacement regulations.

150 (26) "Greenfield" means land not developed beyond agricultural, range, or forestry  
151 use.

152 (27) "Hazardous waste" means any substance defined, regulated, or listed as a  
153 hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant,  
154 contaminant, or toxic substance, or identified as hazardous to human health or the  
155 environment, under state or federal law or regulation.

156 (28) "Housing allocation" means project area funds allocated for housing under  
157 Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section  
158 17C-1-412.

159 (29) "Housing fund" means a fund created by an agency for purposes described in  
160 Section 17C-1-411 or 17C-1-412 that is comprised of:

161 (a) project area funds, project area incremental revenue as defined in Section  
162 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the  
163 purposes described in Section 17C-1-411; or

164 (b) an agency's housing allocation.

165 (30) (a) "Inactive airport site" means land that:  
166 (i) consists of at least 100 acres;  
167 (ii) is occupied by an airport:  
168 (A) (I) that is no longer in operation as an airport; or  
169 (II) (Aa) that is scheduled to be decommissioned; and  
170 (Bb) for which a replacement commercial service airport is under construction; and  
171 (B) that is owned or was formerly owned and operated by a public entity; and  
172 (iii) requires remediation because:  
173 (A) of the presence of hazardous waste or solid waste; or  
174 (B) the site lacks sufficient public infrastructure and facilities, including public roads,  
175 electric service, water system, and sewer system, needed to support development of the site.  
176 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land  
177 described in Subsection (30)(a).

178 (31) (a) "Inactive industrial site" means land that:  
179 (i) consists of at least 1,000 acres;  
180 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial  
181 facility; and  
182 (iii) requires remediation because of the presence of hazardous waste or solid waste.  
183 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land  
184 described in Subsection (31)(a).

185 (32) "Income targeted housing" means housing that is owned or occupied by a family  
186 whose annual income is at or below 80% of the median annual income for a family within the  
187 county in which the housing is located.

188 (33) "Incremental value" means a figure derived by multiplying the marginal value of  
189 the property located within a project area on which tax increment is collected by a number  
190 that represents the adjusted tax increment from that project area that is paid to the agency.

191 (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,  
192 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

193 (35) (a) "Local government building" means a building owned and operated by a  
194 community for the primary purpose of providing one or more primary community functions,  
195 including:

196 (i) a fire station;  
197 (ii) a police station;

198 (iii) a city hall; or  
199 (iv) a court or other judicial building.  
200 (b) "Local government building" does not include a building the primary purpose of  
201 which is cultural or recreational in nature.

202 (36) "Major transit investment corridor" means the same as that term is defined in  
203 Section 10-9a-103.

204 (37) "Marginal value" means the difference between actual taxable value and base  
205 taxable value.

206 (38) "Military installation project area" means a project area or a portion of a project  
207 area located within a federal military installation ordered closed by the federal Defense Base  
208 Realignment and Closure Commission.

209 (39) "Municipality" means a city, town, or metro township as defined in Section  
210 10-2a-403.

211 (40) "Participant" means one or more persons that enter into a participation  
212 agreement with an agency.

213 (41) "Participation agreement" means a written agreement between a person and an  
214 agency ~~[that:~~

215 ~~— (a) includes a description of:~~

216 ~~— (i) the project area development that the person will undertake;~~

217 ~~— (ii) the amount of project area funds the person may receive; and~~

218 ~~— (iii) the terms and conditions under which the person may receive project area funds;~~

219 ~~and~~

220 ~~— (b) is approved by resolution of the board.] under Subsection 17C-1-202(5).~~

221 (42) "Plan hearing" means the public hearing on a proposed project area plan  
222 required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan,  
223 Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection  
224 17C-4-102(1)(d) for a community development project area plan, or Subsection  
225 17C-5-104(3)(e) for a community reinvestment project area plan.

226 (43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or  
227 after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the  
228 project area plan's adoption.

229 (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before  
230 July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

231 (45) "Private," with respect to real property, means property not owned by a public  
232 entity or any other governmental entity.

233 (46) "Project area" means the geographic area described in a project area plan within  
234 which the project area development described in the project area plan takes place or is  
235 proposed to take place.

236 (47) "Project area budget" means a multiyear projection of annual or cumulative  
237 revenues and expenses and other fiscal matters pertaining to a project area prepared in  
238 accordance with:

239 (a) for an urban renewal project area, Section 17C-2-201;

240 (b) for an economic development project area, Section 17C-3-201;

241 (c) for a community development project area, Section 17C-4-204; or

242 (d) for a community reinvestment project area, Section 17C-5-302.

243 (48) "Project area development" means activity within a project area that, as  
244 determined by the board, encourages, promotes, or provides development or redevelopment  
245 for the purpose of implementing a project area plan, including:

246 (a) promoting, creating, or retaining public or private jobs within the state or a  
247 community;

248 (b) providing office, manufacturing, warehousing, distribution, parking, or other  
249 facilities or improvements;

250 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or  
251 remediating environmental issues;

252 (d) providing residential, commercial, industrial, public, or other structures or spaces,  
253 including recreational and other facilities incidental or appurtenant to the structures or  
254 spaces;

255 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating  
256 existing structures;

257 (f) providing open space, including streets or other public grounds or space around  
258 buildings;

259 (g) providing public or private buildings, infrastructure, structures, or improvements;

260 (h) relocating a business;

261 (i) improving public or private recreation areas or other public grounds;

262 (j) eliminating a development impediment or the causes of a development  
263 impediment;



264 (k) redevelopment as defined under the law in effect before May 1, 2006; or  
265 (l) any activity described in this Subsection (48) outside of a project area that the  
266 board determines to be a benefit to the project area.

267 (49) "Project area funds" means tax increment or sales and use tax revenue that an  
268 agency receives under a project area budget adopted by a taxing entity committee or an  
269 interlocal agreement.

270 (50) "Project area funds collection period" means the period of time that:

271 (a) begins the day on which the first payment of project area funds is distributed to an  
272 agency under a project area budget approved by a taxing entity committee or an interlocal  
273 agreement; and

274 (b) ends the day on which the last payment of project area funds is distributed to an  
275 agency under a project area budget approved by a taxing entity committee or an interlocal  
276 agreement.

277 (51) "Project area plan" means an urban renewal project area plan, an economic  
278 development project area plan, a community development project area plan, or a community  
279 reinvestment project area plan that, after the project area plan's effective date, guides and  
280 controls the project area development.

281 (52) (a) "Property tax" means each levy on an ad valorem basis on tangible or  
282 intangible personal or real property.

283 (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege  
284 Tax.

285 (53) "Public entity" means:

286 (a) the United States, including an agency of the United States;

287 (b) the state, including any of the state's departments or agencies; or

288 (c) a political subdivision of the state, including a county, municipality, school district,  
289 special district, special service district, community reinvestment agency, or interlocal  
290 cooperation entity.

291 (54) "Publicly owned infrastructure and improvements" means water, sewer, storm  
292 drainage, electrical, natural gas, telecommunication, or other similar systems and lines,  
293 streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation  
294 facilities, or other facilities, infrastructure, and improvements benefitting the public and to be  
295 publicly owned or publicly maintained or operated.

296 (55) "Record property owner" or "record owner of property" means the owner of real

297 property, as shown on the records of the county in which the property is located, to whom the  
298 property's tax notice is sent.

299 (56) "Sales and use tax revenue" means revenue that is:

300 (a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act;  
301 and

302 (b) distributed to a taxing entity in accordance with Sections 59-12-204 and  
303 59-12-205.

304 (57) "Superfund site":

305 (a) means an area included in the National Priorities List under the Comprehensive  
306 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605;  
307 and

308 (b) includes an area formerly included in the National Priorities List, as described in  
309 Subsection (57)(a), but removed from the list following remediation that leaves on site the  
310 waste that caused the area to be included in the National Priorities List.

311 (58) "Survey area" means a geographic area designated for study by a survey area  
312 resolution to determine whether:

313 (a) one or more project areas within the survey area are feasible; or

314 (b) a development impediment exists within the survey area.

315 (59) "Survey area resolution" means a resolution adopted by a board that designates  
316 a survey area.

317 (60) "Taxable value" means:

318 (a) the taxable value of all real property a county assessor assesses in accordance  
319 with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

320 (b) the taxable value of all real and personal property the commission assesses in  
321 accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year;  
322 and

323 (c) the year end taxable value of all personal property a county assessor assesses in  
324 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior  
325 year's tax rolls of the taxing entity.

326 (61) (a) "Tax increment" means the difference between:

327 (i) the amount of property tax revenue generated each tax year by a taxing entity from  
328 the area within a project area designated in the project area plan as the area from which tax  
329 increment is to be collected, using the current assessed value of the property and each

330 taxing entity's current certified tax rate as defined in Section 59-2-924; and  
331 (ii) the amount of property tax revenue that would be generated from that same area  
332 using the base taxable value of the property and each taxing entity's current certified tax rate  
333 as defined in Section 59-2-924.

334 (b) "Tax increment" does not include taxes levied and collected under Section  
335 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

336 (i) the project area plan was adopted before May 4, 1993, whether or not the project  
337 area plan was subsequently amended; and

338 (ii) the taxes were pledged to support bond indebtedness or other contractual  
339 obligations of the agency.

340 (62) "Taxing entity" means a public entity that:

341 (a) levies a tax on property located within a project area; or

342 (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

343 (63) "Taxing entity committee" means a committee representing the interests of taxing  
344 entities, created in accordance with Section 17C-1-402.

345 (64) "Unincorporated" means not within a municipality.

346 (65) "Urban renewal project area plan" means a project area plan adopted under  
347 Chapter 2, Part 1, Urban Renewal Project Area Plan.

348

349 **17C-1-202. Agency powers.**

350 (1) An agency may:

351 (a) sue and be sued;

352 (b) enter into contracts generally;

353 (c) buy, obtain an option upon, acquire by gift, or otherwise acquire any interest in real  
354 or personal property;

355 (d) hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or  
356 personal property;

357 (e) own, hold, maintain, utilize, manage, or operate real or personal property, which  
358 may include the use of agency funds or the collection of revenue;

359 (f) enter into a lease agreement on real or personal property, either as lessee or  
360 lessor;

361 (g) provide for project area development as provided in this title;

362 (h) receive and use agency funds as provided in this title;

363 (i) if disposing of or leasing land, retain controls or establish restrictions and  
364 covenants running with the land consistent with the project area plan;

365 (j) accept financial or other assistance from any public or private source for the  
366 agency's activities, powers, and duties, and expend any funds the agency receives for any  
367 purpose described in this title;

368 (k) borrow money or accept financial or other assistance from a public entity or any  
369 other source for any of the purposes of this title and comply with any conditions of any loan  
370 or assistance;

371 (l) issue bonds to finance the undertaking of any project area development or for any  
372 of the agency's other purposes, including:

373 (i) reimbursing an advance made by the agency or by a public entity to the agency;

374 (ii) refunding bonds to pay or retire bonds previously issued by the agency; and

375 (iii) refunding bonds to pay or retire bonds previously issued by the community that  
376 created the agency for expenses associated with project area development;

377 (m) pay an impact fee, exaction, or other fee imposed by a community in connection  
378 with land development;

379 (n) subject to Part 10, Agency Taxing Authority, levy a property tax; or

380 (o) transact other business and exercise all other powers described in this title.

381 (2) The establishment of controls or restrictions and covenants under Subsection  
382 (1)(i) is a public purpose.

383 (3) An agency may acquire real property under Subsection (1)(c) that is outside a  
384 project area only if the board determines that the property will benefit a project area.

385 (4) An agency is not subject to Section 10-8-2 or 17-50-312.

386 (5)(a) An agency may, subject to Subsection (5)(c), enter into an agreement with a  
387 person to govern the development the person will undertaken within a project area.

388 (b) An agreement under Subsection (5)(a) shall include a description of:

389 (i) the project area development that the person will undertake;

390 (ii) the amount of project area funds the agency agrees to pay to the person to  
391 facilitate the development; and

392 (iii) the terms and conditions under which the agency agrees to pay project area funds  
393 to the person.

394 (c)(i) An agreement under Subsection (5)(a) is subject to board approval by resolution  
395 of the board.

396 (ii) A resolution under Subsection (5)(c)(i) shall include a finding by the board  
397 describing how the project area development described in the agreement will contribute to  
398 achieving the goals, policies, and purposes of the project area plan.

399

400 **17C-1-603. Reporting requirements -- Governor's Office of Economic**  
401 **Opportunity to maintain a database.**

402 (1) As used in this section:

403 (a) "Database" means the database described in Subsection (2)(a).

404 (b) "Office" means the Governor's Office of Economic Opportunity.

405 (c) "Office website" means a public website maintained by the office.

406 (1) ~~[On or before June 1, 2022, the Governor's Office of Economic Opportunity]~~ The  
407 office shall:

408 (a) create and maintain a database to track information for each agency located  
409 within the state; and

410 (b) make the database publicly accessible from the ~~[office's]~~ office website.

411 (2) (a) The ~~[Governor's Office of Economic Opportunity]~~ office may:

412 (i) contract with a third party to create and maintain the database ~~[described in~~  
413 ~~Subsection (1)]~~; and

414 (ii) charge a fee for a county, city, or agency to provide information to the database  
415 ~~[described in Subsection (1)]~~.

416 (b) The ~~[Governor's Office of Economic Opportunity]~~ office shall make rules, in  
417 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a fee  
418 schedule for the fee described in Subsection (2)(a)(ii).

419 (3) ~~[Beginning in 2022, on]~~ On or before June 30 of each calendar year, an agency  
420 shall, for each active project area for which the project area funds collection period has not  
421 expired, ~~[provide]~~ submit to the office for inclusion in the database ~~[described in~~  
422 ~~Subsection (1)]~~ the following information:

423 (a) an assessment of the change in marginal value, including:

424 (i) the base year;

425 (ii) the base taxable value;

426 (iii) the prior year's assessed value;

427 (iv) the estimated current assessed value;

428 (v) the percentage change in marginal value; and

429 (vi) a narrative description of the relative growth in assessed value;

430 (b) the amount of project area funds the agency received and spent for each year of

431 the project area funds collection period, broken down by the applicable budget or funds

432 analysis category described in Subsection (3)(d), including:

433 (i) a comparison of the actual project area funds received and spent for each year to

434 the amount of project area funds forecasted for each year when the project area was

435 created, if available;

436 (ii) (A) the agency's historical receipts and expenditures of project area funds,

437 including the tax year for which the agency first received project area funds from the project

438 area; or

439 (B) if the agency has not yet received project area funds from the project area, the

440 year in which the agency expects each project area funds collection period to begin;

441 (iii) a list of each taxing entity that levies or imposes a tax within the project area and

442 a description of the benefits that each taxing entity receives from the project area; and

443 (iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;

444 (c) a description of current and anticipated project area development, including:

445 (i) a narrative of any significant project area development, including infrastructure

446 development, site development, participation agreements, or vertical construction; and

447 (ii) other details of development within the project area, including:

448 (A) the total developed acreage;

449 (B) the total undeveloped acreage;

450 (C) the percentage of residential development; and

451 (D) the total number of housing units authorized, if applicable;

452 (d) the project area budget, if applicable, or other project area funds analyses, with

453 receipts and expenditures categorized by the type of receipt and expenditure related to the

454 development performed or to be performed under the project area plan, including:

455 (i) each project area funds collection period, including:

456 (A) the start and end date of the project area funds collection period; and

457 (B) the number of years remaining in each project area funds collection period;

458 (ii) the amount of project area funds the agency is authorized to receive from the

459 project area cumulatively and from each taxing entity, including:

460 (A) the total dollar amount; and

461 (B) the percentage of the total amount of project area funds generated within the

462 project area;

463 (iii) the remaining amount of project area funds the agency is authorized to receive  
464 from the project area cumulatively and from each taxing entity; and

465 (iv) the amount of project area funds the agency is authorized to use to pay for the  
466 agency's administrative costs, as described in Subsection 17C-1-409(1), including:

467 (A) the total dollar amount; and

468 (B) the percentage of the total amount of all project area funds;

469 (e) the estimated amount of project area funds that the agency is authorized to  
470 receive from the project area for the current calendar year;

471 (f) the estimated amount of project area funds to be paid to the agency for the next  
472 calendar year;

473 (g) a map of the project area; ~~[and]~~

474 (h) a description of how the goals, policies, and purposes of the project area plan  
475 have been furthered during the preceding year; and

476 ~~[(h)]~~ (i) any other relevant information the agency elects to provide.

477 (4) An agency with no active project area shall, no later than June 30 of each year  
478 until the agency is dissolved under Section 17C-1-701.5, submit a report to the office stating  
479 that the agency has no active project area.

480 ~~[(4)]~~ (5) Any information an agency submits in accordance with this section:

481 (a) is for informational purposes only; and

482 (b) does not alter the amount of project area funds that an agency is authorized to  
483 receive from a project area.

484 ~~[(5)]~~ (6) The provisions of this section apply regardless of when the agency or  
485 project area is created.

486 ~~[(6)]~~ (7) On or before September 1 of each year, the ~~[Governor's Office of Economic~~  
487 ~~Opportunity]~~ office shall prepare and submit an annual written report to the Political  
488 Subdivisions Interim Committee that identifies~~[-~~

489 ~~——(a)]~~ the agencies that complied and the agencies that failed to comply with the  
490 reporting requirements of this section during the preceding reporting period~~[-and~~

491 ~~——(b) any agencies that failed to comply with the reporting requirements of this section~~  
492 ~~during the preceding reporting period].~~

493 (8)(a) If the office does not receive the information that an agency is required to  
494 submit under Subsection (3) by September 30 of the year the information is due, the office

495 shall:

496 (i) refer the noncompliant agency to the state auditor for review; and

497 (ii) post a notice on the office website identifying the noncompliant agency and  
498 describing the agency's noncompliance.

499 (b) If the office does not receive a report an agency is required to submit under  
500 Subsection (4), the office shall refer the noncompliant agency to the state auditor for review.

501 (c) If, for two consecutive years, the office does not receive information an agency is  
502 required to submit under Subsection (3):

503 (i) the office shall notify the auditor and treasurer of the county in which the  
504 noncompliant agency is located of the agency's noncompliance; and

505 (ii) upon receiving the notice described in Subsection (8)(c)(i), the county treasurer  
506 shall withhold from the agency 20 percent of the amount the agency is otherwise entitled to  
507 receive under an interlocal agreement with a taxing entity for the sharing of tax increment,  
508 until the office notifies the county auditor and treasurer that the agency has complied with the  
509 requirement of Subsection (3).

510

511 **17C-1-702. Project area dissolution.**

512 (1) Regardless of when a project area funds collection period ends, the project area  
513 remains in existence until:

514 (a) the agency adopts a resolution dissolving the project area; and

515 (b) the community legislative body adopts an ordinance dissolving the project area.

516 (2) The ordinance described in Subsection (1)(b) shall include:

517 (a) the name of the project area; and

518 (b) a project area map or boundary description.

519 (3) Within 30 days after the day on which the community legislative body adopts an  
520 ordinance described in Subsection (1)(b), the community legislative body shall:

521 (a) submit a copy of the ordinance to the county recorder of the county in which the  
522 dissolved project area is located; and

523 (b) mail or electronically submit a copy of the ordinance to the county auditor, the  
524 State Tax Commission, the State Board of Education, and each taxing entity that levies or  
525 imposes a tax on property within the dissolved project area.

526 (4)(a) As used in this Subsection (4), "dormancy period" means a period that ends the  
527 later of:



528 (i) five years after the project area funds collection period ends; and  
529 (ii) five years after the effective date of this section.  
530 (b) An agency with project area funds remaining at the end of the dormancy period  
531 shall use the unexpended funds as provided in Subsection 17C-1-412(1)(b).

532  
533 **17C-5-105 (Effective 07/01/23). Community reinvestment project area plan**  
534 **requirements.**

535 An agency shall ensure that each community reinvestment project area plan and  
536 proposed community reinvestment project area plan:

537 (1) subject to Section 17C-1-414, if applicable, includes a boundary description and a  
538 map of the community reinvestment project area;

539 (2) contains a general statement of the existing land uses, layout of principal streets,  
540 population densities, and building intensities of the community reinvestment project area and  
541 how each will be affected by project area development;

542 (3) states the standards that will guide project area development;

543 (4) shows how project area development will further purposes of this title;

544 (5) is consistent with the general plan of the community in which the community  
545 reinvestment project area is located and shows that project area development will conform to  
546 the community's general plan;

547 (6) if applicable, describes how project area development will eliminate or reduce a  
548 development impediment in the community reinvestment project area;

549 (7) describes any specific project area development that is the object of the  
550 community reinvestment project area plan;

551 (8) if applicable, explains how the agency plans to select a participant;

552 (9) states each reason the agency selected the community reinvestment project area;

553 (10) describes the physical, social, and economic conditions that exist in the  
554 community reinvestment project area;

555 (11) describes each type of financial assistance that the agency anticipates offering a  
556 participant;

557 (12) includes an analysis or description of the anticipated public benefit resulting from  
558 project area development, including benefits to the community's economic activity and tax  
559 base;

560 (13) includes the rationale for the use of tax increment, including an analysis of

561 whether the proposed project area development might reasonably be expected to occur in  
562 the foreseeable future without the use of tax increment;

563 ~~[(13)]~~ (14) if applicable, states that the agency shall comply with Section 9-8a-404 as  
564 required under Section 17C-5-106;

565 ~~[(14)]~~ (15) for a community reinvestment project area plan that an agency adopted  
566 before May 14, 2019, states whether the community reinvestment project area plan or  
567 proposed community reinvestment project area plan is subject to a taxing entity committee or  
568 an interlocal agreement; and

569 ~~[(15)]~~ (16) includes other information that the agency determines to be necessary or  
570 advisable.

571

572 **63N-2-104.2. Written agreement -- Contents -- Grounds for amendment or**  
573 **termination.**

574 (1) If the office determines that a business entity is eligible for a tax credit under  
575 Section 63N-2-104.1, the office may enter into a written agreement with the business entity  
576 that:

577 (a) establishes performance benchmarks for the business entity to claim a tax credit,  
578 including any minimum wage requirements;

579 (b) specifies the maximum amount of tax credit that the business entity may be  
580 authorized for a taxable year and over the life of the new commercial project, subject to the  
581 limitations in Section 63N-2-104.3;

582 (c) establishes the length of time the business entity may claim a tax credit;

583 (d) requires the business entity to retain records supporting a claim for a tax credit for  
584 at least four years after the business entity claims the tax credit;

585 (e) requires the business entity to submit to audits for verification of any tax credit  
586 claimed; and

587 (f) requires the business entity, in order to claim a tax credit, to meet the requirements  
588 of Section 63N-2-105.

589 (2) In establishing the terms of a written agreement, including the duration and  
590 amount of tax credit that the business entity may be authorized to receive, the office shall:

591 (a) authorize the tax credit in a manner that provides the most effective incentive for  
592 the new commercial project;

593 (b) consider the following factors:

594 (i) whether the new commercial project provides vital or specialized support to supply  
595 chains;

596 (ii) whether the new commercial project provides an innovative product, technology,  
597 or service;

598 (iii) the number and wages of new incremental jobs associated with the new  
599 commercial project;

600 (iv) the amount of financial support provided by local government entities for the new  
601 commercial project;

602 (v) the amount of capital expenditures associated with the new commercial project;

603 (vi) whether the new commercial project returns jobs transferred overseas;

604 (vii) the rate of unemployment in the county in which the new commercial project is  
605 located;

606 (viii) whether the new commercial project creates a remote work opportunity;

607 (ix) whether the new commercial project is located in a development zone created by  
608 a local government entity as described in Subsection 63N-2-104(2);

609 (x) whether the business entity commits to hiring Utah workers for the new  
610 commercial project;

611 (xi) whether the business entity adopts a corporate citizenry plan or supports  
612 initiatives in the state that advance education, gender equality, diversity and inclusion,  
613 work-life balance, environmental or social good, or other similar causes;

614 (xii) whether the business entity's headquarters are located within the state;

615 (xiii) the likelihood of other business entities relocating to another state as a result of  
616 the new commercial project;

617 (xiv) the necessity of the tax credit for the business entity's expansion in the state or  
618 relocation from another state; [\[and\]](#)

619 (xv) whether the proposed new commercial project might reasonably be expected to  
620 occur in the foreseeable future without the tax credit; and

621 ~~[(xv)]~~ (xvi) the location and impact of the new commercial project on existing and  
622 planned transportation facilities, existing and planned housing, including affordable housing,  
623 and public infrastructure; and

624 (c) consult with the GO Utah board.

625 (3) (a) In determining the amount of tax credit that a business entity may be  
626 authorized to receive under a written agreement, the office may:

627 (i) authorize a higher or optimized amount of tax credit for a new commercial project  
628 located within a development zone created by a local government entity as described in  
629 Subsection 63N-2-104(2); and

630 (ii) establish by rule made in accordance with Title 63G, Chapter 3, Utah  
631 Administrative Rulemaking Act, a process by which the office closely approximates the  
632 amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act,  
633 for a capital project.

634 (b) The office may apply a process described in Subsection (3)(a)(ii) to a business  
635 entity only with respect to a new or amended written agreement that takes effect on or after  
636 January 1, 2022.

637 (4) If the office identifies any of the following events after entering into a written  
638 agreement with a business entity, the office and the business entity shall amend, or the office  
639 may terminate, the written agreement:

640 (a) a change in the business entity's organization resulting from a merger with or  
641 acquisition of another entity located in the state;

642 (b) a material increase in the business entity's retail operations that results in new  
643 state revenue not subject to the incentive; or

644 (c) an increase in the business entity's operations that:

645 (i) is outside the scope of the written agreement or outside the boundaries of a  
646 development zone; and

647 (ii) results in new state revenue not subject to the incentive.